

Explanation: These technical changes would replace remaining references to "mentally retarded" or "mental retardation" or associated acronyms with People First Language, in addition to various clean-up changes.

Proposed technical changes:

SECTION #.(a) Sub-subdivision (e)(3)b. of G.S. 108A-58.2 is recodified as sub-subdivision (e)(3)c1. of that section.

SECTION #.(b) G.S. 108A-58.2, as amended by subsection (a) of this section, reads as rewritten:

"§ 108A-58.2. Waiver of transfer of assets penalty due to undue hardship.

(a) Prior to imposition of a period of ineligibility for long-term care services because of an asset transfer, also known as a penalty period, the county department of social services shall notify the individual of the individual's right to request a waiver of the penalty period because it will cause an undue hardship to the individual. The director of the county department of social services, or the director's designee shall grant a waiver of the penalty period due to undue hardship if the individual meets the conditions set forth in subsection (e) of this section. As used in this section, "long term care services" are those services described in 42 U.S.C. § 1396p(c)(1)(C)(i) and (ii).

(b) When a Medicaid applicant who is requesting Medicaid to pay for institutional care requests a waiver of a penalty period due to undue hardship, the determination of whether to waive the penalty period shall be processed as part of the Medicaid application and is subject to the application processing standards set forth in 10A NCAC 21B.0203.

(c) When an ongoing Medicaid recipient applies for institutional care or is receiving Medicaid payment for institutional care receives the notice described in subsection (a) of this section, the recipient has 12 calendar days from the date of the notice to request a waiver of the penalty due to undue hardship. The following are the procedures for processing the waiver request:

- (1) Within five work days of receipt of a request for a waiver of the transfer of assets penalty, the county department of social services shall notify the individual in writing of the information and documentation necessary to determine if the requirements for approving the undue hardship waiver are met.
- (2) The individual shall have 12 calendar days from the date of the notice specified in subdivision (1) of this subsection to provide the necessary information and documentation to establish the undue hardship.
- (3) If at the end of the first 12 calendar day period the necessary information and documentation has not been received by the county department of social services, the county department of social services shall again notify the individual of the necessary information and documentation. The individual shall be given an additional 12 calendar days to provide the information and documentation.
- (4) If the individual fails to request the undue hardship waiver within 12 calendar days from the date of the notice described in subsection (a) of this section, the county department of social services shall impose the transfer of assets penalty in accordance with notice requirements in G.S. 108A-79.
- (5) If by the end of the 12 calendar days from the notice described in subdivision (3) of this subsection, the necessary information and documentation has not been received by the county department of social services, the county

department of social services shall deny the request for waiver of the penalty for undue hardship and notify the individual of the denial in accordance with G.S. 108A-79.

- (6) If by the end of the time allowed under subdivisions (2) and (3) of this subsection the county department of social services has received the necessary information and documentation, the county department of social services shall make a determination of whether the imposition of the penalty period would cause an undue hardship to the individual. The county department of social services shall complete the determination and notify the individual, pursuant to subsection (g) of this section, of whether the imposition of the penalty period will be waived due to undue hardship within 12 calendar days of the receipt of the necessary information and documentation.
- (7) If as part of the determination described in subdivision (6) of this subsection the county department of social services identifies the need for additional information and documentation, it shall notify the individual in writing of that information and documentation. This notice shall initiate a new period of time for the individual to provide the information and documentation as set forth in subdivisions (2) and (3) of this subsection. Within 12 calendar days of the receipt of the additional information and documentation, the county department of social services shall complete the determination and notify the individual, pursuant to subsection (g) of this section, of whether the imposition of the penalty period will be waived due to undue hardship.

(d) As required by 42 U.S.C. § 1396p(c)(2)(D), the facility in which an institutionalized individual is residing may request an undue hardship waiver on behalf of the institutionalized individual with the written consent of the individual or the personal representative of the individual. A facility applying for a waiver for an individual residing in the facility shall adhere to the requirements of this section but ~~shall not be~~ is not required to advance the costs of acquiring an attorney to aid the institutionalized individual.

(e) Except as provided for in subsection (f) of this section, undue hardship exists if the imposition of the penalty period would deprive the individual of medical care, such that the individual's health or life would be ~~endangered;~~ endangered, or of food, clothing, shelter, or other necessities of life. The individual must provide the information and documentation necessary to demonstrate to the director of the county department of social services or the director's designee ~~that:~~ all of the following:

- (1) The individual currently has no alternative income or resources available to provide the medical care or food, clothing, shelter, or other necessities of life that the individual would be deprived of due to the imposition of the ~~penalty;~~ and penalty.
- (2) The individual or some other person acting on the individual's behalf is making a good faith effort to pursue all reasonable means to recover the transferred asset or the fair market value of the transferred asset, ~~which may include:~~ including any of the following:
 - a. Seeking the advice of an attorney and pursuing legal or equitable remedies such as asset freezing, assignment, ~~or injunction;~~ or injunction.

a1. ~~seeking~~ Seeking modification, avoidance, or nullification of a financial instrument, promissory note, loan, mortgage or other property agreement, or other similar transfer ~~agreement; and agreement.~~

b. Cooperating with any attempt to recover the transferred asset or the fair market value of the transferred asset.

(3) The following definitions ~~shall apply to~~ apply in this subsection. subsection:

a. ~~"Health or life would be endangered" means a~~ Health or life would be endangered. – A medical doctor with knowledge of the individual's medical condition certifies in writing that in his or her professional opinion, the individual will be in danger of death or the individual's health will suffer irreparable harm if a penalty period is imposed.

b. Recodified.

c. ~~"Income" means all~~ Income. – All income of the individual and the community spouse less a protected amount for the community spouse equal to the minimum monthly maintenance needs allowance as determined under 42 U.S.C. § 1396r-5(d), including in all circumstances the excess shelter allowance described under 42 U.S.C. § 1396r-5(d)(3)(A)(ii), without regard to any adjustment that would be made under 42 U.S.C. § 1396r-5(e), plus fifty percent (50%) of ~~such the~~ income in excess of the protected amount.

c1. ~~"Other necessities of life" includes~~ Other necessities of life. – Includes basic, life sustaining utilities, including water, heat, electricity, phone, and other items or activities that without which the individual's health or life would be endangered.

d. ~~"Resources" means all~~ Resources. – All resources of the individual and of the community spouse except the homesite in which the individual or community spouse has an equity interest not exceeding five hundred thousand dollars (\$500,000), a motor vehicle in which the individual or community spouse has an equity interest not exceeding thirty thousand dollars (\$30,000), personal property, and, in the case of a community spouse, a portion of such other resources in an amount equal to the community spouse resource allowance as defined by 42 U.S.C. § 1396r-5(f)(2), ~~provided that such amount shall so long as the amount does not~~ exceed sixty percent (60%) of the maximum community spouse resource allowance as defined by 42 U.S.C. § 1396r-5(f)(2)(A)(ii). For purposes of this sub-subdivision, "homesite" means the principal place of residence of the individual or the community spouse in which the individual or community spouse has an equity interest.

(f) An undue hardship ~~shall does~~ not exist when the application of a transfer of assets penalty merely causes the individual an inconvenience or restricts the individual's lifestyle.

(g) If the director of the county department of social services or the director's designee determines that:

(1) An undue hardship exists, the county department of social services shall waive the penalty period and notify the individual of approval of the waiver of the penalty in accordance with G.S. 108A-79.

- (2) An undue hardship does not exist, the county department of social services shall deny the request for the waiver of the penalty and notify the individual of denial of the waiver request in accordance with G.S. 108A-79.

(h) During a penalty period that has been waived because of undue hardship, acquisition by the individual of new or increased income or resources shall be treated as a change in situation and evaluated pursuant to the rules adopted by the Department of Health and Human Services.

(i) While the determination on a request for a waiver of the penalty period due to undue hardship is pending, Medicaid shall not make payments for nursing facility services or intermediate care facility for ~~the mentally retarded~~ individuals with intellectual disabilities services to hold a bed for the individual, as described in 42 U.S.C. § 1396p(c)(2)(D). However, if the individual is institutionalized and receiving Medicaid payment for services, Medicaid will maintain the same level of services until the last day of the month after the latter of the following:

- (1) Expiration of the 10 workday period following the notice required by ~~G.S. 108A-79, or~~ G.S. 108A-79.
- (2) The date of the decision of a local appeal hearing described in G.S. 108A-79 is issued if the individual requests an appeal of the imposition of a transfer of assets penalty period within the 10 workday period described in subdivision (1) of subsection (i) of this section."

SECTION #.(c) G.S. 108A-61.1 reads as rewritten:

"§ 108A-61.1. Financial responsibility of a parent for a child under age 21 in a medical institution.

Notwithstanding any other provisions of the law, for the purpose of determining eligibility for medical assistance under Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., the income and financial resources of the natural or adoptive parents of a person who is under the age of 21 and who requires Medicaid covered services in a medical institution shall not be counted if the patient's physician certifies, and the Division of Health Benefits or its agents approve, that continuous care and treatment are expected to exceed 12 months. For purposes of this subsection, "medical institution" means licensed acute care inpatient medical facilities providing medical, surgical, and psychiatric or substance abuse treatment, or facilities providing skilled or intermediate care, including intermediate care for ~~the mentally retarded.~~ individuals with intellectual disabilities."

SECTION #.(d) Subdivision (b)(1) of G.S. 108A-70.5 is recodified as subdivision (b)(4) of that section. Sub-sub-subdivisions b.3a. and 4. of that subdivision are recodified as sub-sub-subdivisions b.4. and 5. of that subdivision, respectively.

SECTION #.(e) G.S. 108A-70.5, as amended by subsection (d) of this section, reads as rewritten:

"§ 108A-70.5. Medicaid Estate Recovery Plan.

(a) There is established in the Department of Health and Human Services, the Medicaid Estate Recovery Plan, as required by the Omnibus Budget Reconciliation Act of 1993, to recover from the estates of recipients of medical assistance an equitable amount of the State and federal shares of the cost paid for the recipient. The Department shall administer the program in accordance with applicable federal law and regulations, including those under Title XIX of the Social Security Act, 42 U.S.C. § 1396(p).

(b) The following definitions apply in this section:

(1) Recodified.

(2) Estate. – All the real and personal property considered assets of the estate available for the discharge of debt pursuant to G.S. 28A-15-1. The Department has all rights available to estate creditors, including the right to qualify as personal representative or collector of an estate. For individuals who have received benefits under a qualified long-term care partnership policy as described in G.S. 108A-70.4, "estate" this term also includes any other real and personal property and other assets in which the individual had any legal title or interest at the time of death (to the extent of ~~such the~~ interest), including assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement.

(3) Repealed by Session Laws 2007-442, s. 1, effective August 23, 2007.

(4) Medical assistance. – Medical care services paid for by the North Carolina Medicaid Program on behalf of the ~~recipient~~; recipient as follows:

a. If the recipient of any age is receiving medical care services as an inpatient in a nursing facility, intermediate care facility for ~~the mentally retarded~~, individuals with intellectual disabilities, or other medical institution, and cannot reasonably be expected to be discharged to return ~~home; or home~~.

b. If the recipient is 55 years of age or older and is receiving one or more of the following medical care services:

1. Nursing facility services.
2. Home and community-based services.
3. Hospital care.
4. Prescription drugs.
5. Personal care services.

(c) The amount the Department recovers from the estate of any recipient shall not exceed the amount of medical assistance made on behalf of the recipient and ~~shall be~~ is recoverable only for medical care services prescribed in subsection (b) of this section. The Department is a sixth-class creditor, as prescribed in G.S. 28A-19-6, for purposes of determining the order of claims against an estate; ~~provided, however, that~~ judgments in favor of other sixth-class creditors docketed and in force before the Department seeks recovery for medical assistance shall be paid prior to recovery by the Department.

(d) The Department of Health and Human Services shall adopt rules pursuant to Chapter 150B of the General Statutes to implement the Plan, including rules to waive whole or partial recovery when this recovery would be inequitable because it would work an undue hardship or because it would not be administratively cost-effective and rules to ensure that all recipients are notified that their estates are subject to recovery at the time they become eligible to receive medical assistance.

(e) Repealed by Session Laws 2007-442, s. 1, effective August 23, 2007.

(f) With regard to any recipient who has received compensation pursuant to Part 30 of Article 9 of Chapter 143B of the General Statutes, the Department shall reduce the amount of any recovery it seeks from the deceased recipient's estate under this section by the amount of the resource disregard provided for in G.S. 143B-426.56(b)(1)."

SECTION #.(f) G.S. 28A-14-1 reads as rewritten:**"§ 28A-14-1. Notice for claims.**

→ Every personal representative and collector after the granting of letters shall notify all persons, ~~firms~~ firms, and corporations having claims against the decedent to present ~~the same~~ their claims to ~~such~~ the personal representative or collector, on or before a day to be named in ~~such~~ the notice, which day must be at least three months from the day of the first publication or posting of ~~such~~ the notice. The notice shall set out a mailing address for the personal representative or collector. The notice shall be published once a week for four consecutive weeks in a newspaper qualified to publish legal advertisements, if any such newspaper is published in the county. If there is no newspaper published in the county, but there is a newspaper having general circulation in the county, then at the option of the personal representative, or collector, the notice shall be published once a week for four consecutive weeks in the newspaper having general circulation in the county and posted at the courthouse or the notice shall be posted at the courthouse and four other public places in the county. Personal representatives are not required to publish or mail notice to creditors if the only asset of the estate consists of a claim for damages arising from death by wrongful act. When any collector or personal representative of an estate has published or mailed the notice provided for by this section, no further publication or mailing shall be required by any other collector or personal representative.

→ Prior to filing the proof of notice required by G.S. 28A-14-2, every personal representative and collector shall personally deliver or send by first class mail to the last known address a copy of the notice required by subsection (a) of this section to all persons, firms, and corporations having unsatisfied claims against the decedent ~~who~~ that are actually known or can be reasonably ascertained by the personal representative or collector within 75 days after the granting of letters and, if at the time of the decedent's death the decedent was receiving medical assistance as defined by ~~G.S. 108A-70.5(b)(1), G.S. 108A-70.5(b),~~ to the Division of Health Benefits of the Department of Health and Human Services, Division of Health Benefits, Services. Provided, however, no notice shall be No notice, however, is required to be delivered or mailed with respect to any claim that is recognized as a valid claim by the personal representative or collector.

★ → The personal representative or collector may personally deliver or mail by first class mail a copy of the notice required by subsection (a) of this section to all creditors of the estate whose names and addresses can be ascertained with reasonable diligence. If the personal representative or collector in good faith believes that the notice required by subsection (b) of this section to a particular creditor is or may be required and gives notice based on that belief, the personal representative or collector is not liable to any person for giving the notice, whether or not the notice is actually required by subsection (b) of this section. If the personal representative or collector in good faith fails to give notice required by subsection (b) of this section, the personal representative or collector is not liable to any person for ~~such~~ the failure."

SECTION #.(g) G.S. 36C-8-818 reads as rewritten:**"§ 36C-8-818. Notice of deceased Medicaid beneficiaries.**

★ → If a trust was established by a person who at the time of that person's death was receiving medical assistance, as defined in ~~G.S. 108A-70.5(b)(1), G.S. 108A-70.5(b),~~ and the trust was revocable at the time of that person's death, then any trustee of that trust ~~who~~ that knows of the medical assistance within 90 days of the person's death shall provide notice of that person's death to the Division of Health Benefits of the Department of Health and Human Services, Division of Health Benefits, within 90 days of the person's death. This section does not apply to trustees of

preneed funeral trusts established or created pursuant to Article 13D of Chapter 90 of the General Statutes."

SECTION #.(h) G.S. 122C-23 reads as rewritten:

§ 122C-23. Licensure.

(a) No person shall establish, maintain, or operate a licensable facility for ~~the mentally ill, developmentally disabled, individuals with mental illnesses, individuals with intellectual or other developmental disabilities,~~ or substance abusers without a current license issued by the Secretary.

(b) Each license is issued to the person only for the premises named in the application and ~~shall not be~~ is not transferrable or assignable except with prior written approval of the Secretary.

(c) Any person ~~who that~~ intends to establish, maintain, or operate a licensable facility shall apply to the Secretary for a license. The Secretary shall prescribe by rule the contents of the application forms.

(d) The Secretary shall issue a license if the Secretary finds that the person complies with this Article and the rules of the Commission and Secretary.

(e) Initial licenses issued under ~~the authority of this section~~ shall be ~~are~~ valid for not more than 15 months. Licenses shall be renewed annually thereafter and shall expire at the end of the calendar year. The expiration date of a license shall be specified on the license when issued. Renewal of a regular license is contingent upon receipt of information required by the Secretary for renewal and continued compliance with this Article and the rules of the Commission and the Secretary. Licenses for facilities that have not served any clients during the previous 12 months are not eligible for renewal.

The Secretary may issue a provisional license for a period up to six months to a person obtaining the initial license for a facility. The licensee must demonstrate substantial compliance prior to being issued a full license.

A provisional license for a period not to exceed six months may be granted by the Secretary to a person ~~who that~~ is temporarily unable to comply with a rule when the noncompliance does not present an immediate threat to the health and safety of the individuals in the licensable facility. During this period the licensable facility shall correct the noncompliance based on a plan submitted to and approved by the Secretary. A provisional license for an additional period of time to meet the noncompliance ~~may~~ shall not be issued.

(e1) Except as provided in subsection (e2) of this section, the Secretary shall not enroll any new provider for Medicaid Home or Community Based services or other Medicaid services, as defined in 42 C.F.R. 440.90, 42 C.F.R. 440.130(d), and 42 C.F.R. 440.180, or issue a license for a new facility or a new service to any applicant meeting any of the following criteria:

(1) The applicant was the owner, principal, or affiliate of a licensable facility under Chapter 122C, Chapter 131D, or Article 7 of Chapter 110 of the General Statutes that had its license revoked until 60 months after the date of the revocation.

(2) The applicant is the owner, principal, or affiliate of a licensable facility that was assessed a penalty for a Type A or Type B violation under Article 3 of this Chapter, or any combination thereof, and any one of the following conditions exist:

a. A single violation has been assessed in the six months prior to the application.

- b. Two violations have been assessed in the 18 months prior to the application and 18 months have not passed from the date of the most recent violation.
 - c. Three violations have been assessed in the 36 months prior to the application and 36 months have not passed from the date of the most recent violation.
 - d. Four or more violations have been assessed in the 60 months prior to application and 60 months have not passed from the date of the most recent violation.
- (3) The applicant is the owner, principal, or affiliate of a licensable facility that had its license summarily suspended or downgraded to provisional status as a result of violations under G.S. 122C-24.1(a) until 60 months after the date of reinstatement or restoration of the license.
- (4) The applicant is the owner, principal, or affiliate of a licensable facility that had its license summarily suspended or downgraded to provisional status as a result of violations under Article 1A of Chapter 131D of the General Statutes until 60 months after the date of reinstatement or restoration of the license.
- (e2) The Secretary may enroll a provider described in subsection (e1) of this section if any of the following circumstances apply:
 - (1) The applicant is an area program or county program providing services under G.S. 122C-141, and there is no other provider of the service in the catchment area.
 - (2) The Secretary finds that the area program or county program has shown good cause by clear and convincing evidence why the enrollment should be allowed.
- (e3) ~~For purposes of subdivision (e1)(2), fines assessed prior to October 23, 2002, are not applicable to this provision. However, licensure~~ Licensure or enrollment shall be denied if an applicant's history as a provider under Chapter 131D, Chapter 122C, or Article 7 of Chapter 110 of the General Statutes is such that the Secretary has concluded the applicant will likely be unable to comply with licensing or enrollment statutes, rules, or regulations. In the event the Secretary denies licensure or enrollment under this subsection, the reasons for the denial and appeal rights pursuant to Article 3 of Chapter 150B shall be given to the provider in writing.
- (f) Upon written application and in accordance with rules of the Commission, the Secretary may for good cause waive any of the rules implementing this Article, ~~provided so long as those rules do not affect the health, safety, or welfare of the individuals within the licensable facility.~~ Decisions made pursuant to this subsection may be appealed to the Commission for a hearing in accordance with Chapter 150B of the General Statutes.
- (g) The Secretary may suspend the admission of any new clients to a facility licensed under this Article where the conditions of the facility are detrimental to the health or safety of the clients. This suspension shall be for the period determined by the Secretary and shall remain in effect until the Secretary is satisfied that conditions or circumstances merit removal of the suspension. In suspending admissions under this subsection, the Secretary shall consider the following factors:
 - (1) The degree of sanctions necessary to ensure compliance with this section and rules adopted to implement this ~~subsection, and subsection.~~
 - (2) The character and degree of impact of the conditions at the facility on the health or safety of its clients.

A facility may contest a suspension of admissions under this subsection in accordance with Chapter 150B of the General Statutes. In contesting the suspension of admissions, the facility must file a petition for a contested case within 20 days after the Department mails notice of suspension of admissions to the licensee.

(h) The Department shall charge facilities licensed under this Chapter a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:

Type of Facility	Number of Beds	Base Fee	Per-Bed Fee
★ Facilities (non-ICF/MR): <u>(non-ICF/IID):</u>	0 beds	\$215.00	\$0
	1 to 6 beds	\$305.00	\$0
	More than 6 beds	\$475.00	\$17.50
★ ICF/MR <u>ICF/IID</u> Only:	1 to 6 beds	\$845.00	\$0
	More than 6 beds	\$800.00	\$17.50

(i) A social setting detoxification facility or medical detoxification facility subject to licensure under this Chapter shall not deny admission or treatment to an individual based solely on the individual's inability to pay."

SECTION #.(i) G.S. 131E-267 reads as rewritten:

§ 131E-267. Fees for departmental review of licensed health care facility or Medical Care Commission bond-financed construction projects.

→ (a) The Department of Health and Human Services shall charge a fee for the review of each health care facility construction project to ensure that project plans and construction are in compliance with State law. The fee shall be charged on a one-time, per-project basis as provided in this section. In no event ~~may~~ shall a fee imposed under this section exceed two hundred thousand dollars (\$200,000) for any single project. The first seven hundred twelve thousand six hundred twenty-six dollars (\$712,626) in fees collected under this section shall remain in the Division of Health Service Regulation. Additional fees collected shall be credited to the General Fund as nontax revenue and are intended to offset rather than replace appropriations made for this purpose.

(b) The fee imposed for the review of a hospital construction project varies depending upon the square footage of the project:

Over	Up To	Project Fee
0	5,000	\$1,500 plus \$0.25 per square foot
5,000	10,000	\$3,000 plus \$0.25 per square foot
10,000	20,000	\$4,500 plus \$0.45 per square foot
20,000	NA	\$6,000 plus \$0.45 per square foot

(c) The fee imposed for the review of a nursing home construction project varies depending upon the square footage of the project:

Over	Up To	Project Fee
0	2,000	\$250.00 plus \$0.15 per square foot
2,000	NA	\$500.00 plus \$0.25 per square foot

(d) The fee imposed for the review of an ambulatory surgical facility construction project varies depending upon the square footage of the project:

Over	Up To	Project Fee
0	2,000	\$200.00 plus \$0.15 per square foot
2,000	NA	\$400.00 plus \$0.25 per square foot

(e) The fee imposed for the review of a psychiatric hospital construction project varies depending upon the square footage of the project:

Over	Up To	Project Fee
0	5,000	\$750.00 plus \$0.25 per square foot
5,000	10,000	\$1,500.00 plus \$0.25 per square foot
10,000	20,000	\$2,250.00 plus \$0.45 per square foot
20,000	NA	\$3,000.00 plus \$0.45 per square foot

(f) The fee imposed for the review of an adult care home construction project varies depending upon the square footage of the project:

Over	Up To	Project Fee
0	2,000	\$175.00 plus \$0.10 per square foot
2,000	NA	\$350.00 plus \$0.20 per square foot

(g) The fee imposed for the review of the following residential construction projects is:

Residential Project	Project Fee
Family Care Homes	\$225.00 flat fee
ICF/MR ICF/IID Group Homes	\$350.00 flat fee
Group Homes: 1-3 beds	\$125.00 flat fee
Group Homes: 4-6 beds	\$225.00 flat fee
Group Homes: 7-9 beds	\$275.00 flat fee
Adult Day Care	
Overnight Respite Facility	\$225.00 flat fee
Adult Day Health	
Overnight Respite Facility	\$225.00 flat fee
Other residential:	
More than 9 beds	\$275.00 plus \$0.15 per square foot of project space."

SECTION #.(j) G.S. 131E-272 reads as rewritten:

"§ 131E-272. Initial licensure fees for new facilities.

The following fees are initial licensure fees for new facilities and are applicable as follows:

Facility Type	Number of Beds	Initial License Fee	Initial Bed Fee
Adult Care Licensure	More than 6	\$400.00	\$19.00
	6 or Fewer	\$350.00	\$ -
Acute and Home Care			
General Acute Hospitals	1-49	\$550.00	\$19.00
	50-99	\$750.00	\$19.00
	100-199	\$950.00	\$19.00
	200-399	\$1150.00	\$19.00
	400-699	\$1550.00	\$19.00
	700+	\$1950.00	\$19.00
Other Hospitals		\$1050.00	\$19.00
Home Care	-	\$560.00	\$ -
Ambulatory Surgical Ctrs.	-	\$900.00	\$85.00
Hospice (Free Standing)	-	\$450.00	\$ -
Abortion Clinics	-	\$750.00	\$ -
Cardiac Rehab. Centers	-	\$425.00	\$ -

Nursing Home & L&C

Nursing Homes	\$470.00	\$19.00
All Others	\$ -	\$19.00

Mental Health Facilities

Nonresidential	\$265.00	\$ -
Non ICF-MR <u>Non ICF/IID</u> 6 or fewer	\$350.00	\$ -
ICF-MR <u>ICF/IID</u> only 6 or fewer	\$900.00	\$ -
Non ICF-MR <u>Non ICF/IID</u> More than 6	\$525.00	\$19.00
ICF-MR <u>ICF/IID</u> only More than 6	\$850.00	\$19.00."

SECTION #.(k) G.S. 160D-907 reads as rewritten:

"§ 160D-907. Family care homes.

(a) The General Assembly finds it is the public policy of this State to provide persons with disabilities with the opportunity to live in a normal residential environment.

(b) As used in this section, the following definitions apply:

(1) Family care home. – A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six resident persons with disabilities.

(2) Person with disabilities. – A person with a temporary or permanent physical, emotional, or mental disability, including, but not limited to, ~~mental retardation,~~ an intellectual or other developmental disability, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments but not including ~~mentally ill persons with a mental illness~~ who are dangerous to others as defined in G.S. 122C-3(11)b.

(c) A family care home ~~shall be~~ is deemed a residential use of property for zoning purposes and ~~shall be~~ is a permissible use in all residential districts. No local government ~~may~~ shall require that a family care home, its owner, or operator obtain, because of the use, a special use permit or variance from any such zoning regulation; ~~provided, however, that~~ a local government may prohibit a family care home from being located within a one-half mile radius of an existing family care home.

(d) A family care home ~~shall be~~ is deemed a residential use of property for the purposes of determining charges or assessments imposed by local governments or businesses for water, sewer, power, telephone service, cable television, garbage and trash collection, repairs or improvements to roads, streets, and sidewalks, and other services, utilities, and improvements."

Background:

§ 131E-176. Definitions.

The following definitions apply in this Article:

...

(14a) Intermediate care facility for individuals with intellectual disabilities. – Facilities licensed pursuant to Article 2 of Chapter 122C of the General Statutes for the purpose of providing health and habilitative services based on the developmental model and principles of normalization for individuals with intellectual disabilities, autism, cerebral palsy, epilepsy or related conditions.

....

[Staff Note: In 2010, the U.S. Congress enacted a law to replace "mental retardation" with "intellectual disability" or "intellectual disabilities" in the U.S. Code. Rosa's Law, Pub. L. No. 111-256.]